

Message Text

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21

ACTION L-03

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EB-07 NRC-07 DODE-00 COME-00 TRSE-00 /086 W

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TO SECSTATE WASHDC 3438

INFO USERDA GERMANTOWN

UNCLAS TOKYO 13234

ERDA FOR G.F. HELFRICH, IPI

E.O. 11652: N/A

TAGS: TECH, JA

SUBJECT: ENRICHED URANIUM TAX

REF: 1. STATE 202636

2. STATE 187599

3. TOKYO 7953

1. SCIREP MET WITH MATSUNAGA (DEPUTY GM, NUCLEAR POWER DEVELOPMENT CENTER, TEPCO, AND CHIEF COORDINATOR FOR THE NINE UTILITIES), KISAKE (ASSISTANT MGR NUCLEAR FUEL DEPT, TEPCO), KITANO (US REP TEPCO) AND MITSUO (MITSUI REP) IN ATTEMPT DEVELOP RESPONSES TO REF 1 QUESTIONS.

2. LEGAL NATURE OF UTILITIES AND LEGAL RELATIONSHIP BETWEEN GOJ AND UTILITIES. BEST DESCRIPTION LEGAL NATURE UTILITIES SUPPOSED TO BE 67-PAGE DOCUMENT ENTITLED, "THE ELECTRIC UTILITY INDUSTRY LAW OF JAPAN," DTD MAY 1972, PUBLISHED BY THE PUBLIC UTILITIES, MITI. COPY HAS BEEN AIRMAILED TO HELFRICH. FOLLOWING INFO, HOPEFULLY RESPONSIVE TO BOTH QUESTION OF LEGAL NATURE UTILITIES AND RELATIONSHIP TO GOJ, IS PARTLY SUPPLEMENTARY AND PARTLY DUPLICATIVE. THERE ARE TWO TYPES OF UTILITY COMPANIES IN JAPAN:
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A. THOSE WHICH SUPPLY ELECTRICITY DIRECTLY TO CUSTOMERS.

B. THOSE WHICH WHOLESALE ELECTRICITY TO OTHER UTILITIES FOR DISTRIBUTION (E.G., JAPCO).

ALL ARE PRIVATE COMPANIES SO THAT STOCK IS SOLD TO PRIVATE INDIVIDUALS, NOT GOVT. AT SAME TIME, A BLOCK OF JAPCO STOCK (UNKNOWN AMOUNT) IS HELD BY EPDC (ELECTRIC POWER DEVELOPMENT CORP), AND "MOST" EPDC SHARES ARE HELD BY GOJ. THE UTILITIES ARE PRIVATE ENTERPRISES AND JOINT-STOCK CORPORATIONS UNDER THE COMMERCIAL CODE. WHILE GOJ EXTENDS LOANS THROUGH IDB AND EXIM, IT DOES NOT DIRECTLY HOLD THE UTILITIES' STOCKS. THE GOVERNMENT IS PROHIBITED FROM STANDING SURETY FOR UTILITIES' DEBTS OR SUPPLYING FUNDS FOR DIVIDENDS.

THE ELECTRIC INDUSTRY LAW APPLIES TO THE UTILITIES IN THE MANAGEMENT OF THE UTILITY INDUSTRY. THE REACTOR REGULATION LAW APPLIES TO THE INSTALLATION OF REACTORS AND USE OF NUCLEAR FUELS. UNDER THESE REGULATIONS A PERMIT IS REQUIRED TO CONDUCT UTILITY INDUSTRY BUSINESS (ARTICLE 3). INSTALLATION OF ELECTRIC FACILITIES, E.G., NUCLEAR POWER PLANTS, IS ALSO SUBJECT TO A PERMIT (ARTICLE 8), AS ARE TRANSFER OF CUSTOMERS (ARTICLE 10), AMALGAMATION OF UTILITIES (ARTICLE 10), PURSUING OF SUBSIDIARY BUSINESS (ARTICLE 12), TRANSFER OF EQUIPMENT (ARTICLE 13), MORTGAGING, SUSPENSION OF BUSINESS AND DISSOLUTION (ARTICLE 14). THE UTILITIES ARE REQUIRED TO SUPPLY POWER TO THEIR CUSTOMERS (ARTICLE 18). THEIR RULES ON POWER CHARGES AND POWER SUPPLY ARE SUBJECT TO APPROVAL (ARTICLE 19). THEY ARE REQUIRED TO MAINTAIN CONSTANT VOLTAGE AND FREQUENCY WITHIN SPECIFIED LIMITS (ARTICLE 26). IN CASE UTILITIES' BUSINESS PRACTICE IS UNSATISFACTORY, THE GOVERNMENT CAN ORDER THEM TO RECTIFY THEIR PROCEDURES (ARTICLES 30, 31). THE GOVERNMENT CAN ORDER THE UTILITIES TO SUPPLY ELECTRICITY OR TO LEND EQUIPMENT TO OTHER UTILITIES (ARTICLE 32). THE UTILITIES' ACCOUNTS ARE TO BE TABULATED AS PROVIDED IN THE MITI ORDINANCE (ARTICLE 35), SIMILAR TO FPC CODE OF ACCOUNTS. THE GOVERNMENT CAN ALSO ISSUE ORDERS CONCERNING WRITE-OFFS (ARTICLE 36). CONSTRUCTION PROGRAMS ARE SUBJECT TO APPROVAL, AND ELECTRIC FACILITIES ARE TO RECEIVE PRE-SERVICE INSPECTIONS (ARTICLE 43). NUCLEAR UNCLASSIFIED

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FUELS ARE TO BE INSPECTED (ARTICLE 45). BOTH FOSSIL AND NUCLEAR POWER PLANTS MUST BE PERIODICALLY INSPECTED, GENERALLY ONCE A YEAR (ARTICLE 47). THE UTILITIES MUST PREPARE THEIR SAFETY BY-LAWS (ARTICLE 52) AND EMPLOY LICENSED ENGINEERS (ARTICLE TELM OPERATIONAL AND SAFETY PLANS MUST BE SUBMITTED TO THE GOVERNMENT AND THE UTILITY IS SUBJECT TO LICENSING AND REGULATORY CONSTRAINTS. (THESE ARE AVAILABLE IF THAT LEVEL OF DETAILS IS DESIRED.)

3. AGREEMENT BETWEEN GOJ AND UTILITIES CONCERNING URANIUM AT OAK RIDGE. THERE IS NO WRITTEN AGREEMENT BETWEEN GOJ AND THE UTILITIES REGARDING THE URANIUM AT OAK RIDGE. THE GOJ VERBALLY REQUESTED THE JAPANESE UTILITIES TO NEGOTIATE WITH AEC ON THE BASIS OF: 1) A LETTER OF AUG 25, 1974 FROM A. S. FRIEDMAN,

DIRECTOR, DIA, TO T. INOUE, DIRGEN PUBLIC UTILITIES' BUREAU, MITI; 2) A MINUTE OF JAPAN-US DISCUSSIONS ON AVAILABILITY OF ENRICHMENT SERVICES TO JAPAN WHICH REPORTED ON A MEETING OF US AND JAPANESE REPRESENTATIVES IN WASHINGTON ON AUGUST 21-25, 1972. MATSUNAGA INDICATED THAT IT IS CUSTOMARY IN JAPAN TO CONDUCT THIS SORT OF BUSINESS VERBALLY. WRITTEN DOCUMENTS ARE USUALLY NOT PREPARED SOLELY FOR THE CONDUCT OF BUSINESS MATTERS. THE VERBAL AGREEMENT WAS A COMMITMENT ON THE PART OF THE UTILITIES TO CONDUCT NEGOTIATIONS AND COMPLETE CONTRACTUAL ARRANGEMENTS WITH AEC ON THE BASIS OF THE AUG 25, 1972 LETTER. THE JAPANESE UTILITY PEOPLE HAD UNDERSTOOD THAT THE INTERGOVERNMENTAL AGREEMENT RESULTED FROM DISCUSSIONS BETWEEN THE TWO GOVERNMENTS RELATED TO IMPROVEMENT US BALANCE OF TRADE SITUATION, BUT THEY HAVE NO DOCUMENTATION TO THAT EFFECT. THESE NEGOTIATIONS, BASED SOLELY ON THE VERBAL COMMITMENT OF JAPANESE UTILITIES TO GOJ TO NEGOTIATE WITH USG, RESULTED IN AGREEMENT ON THE PART OF THE UTILITIES TO PURCHASE 10,000 MT SWU ADVANCE SALE MATERIAL FROM AEC. OF THIS 10,000 MT, 5,000 MT STORED IN OAK RIDGE, 3,000 MT IN PORTSMOUTH AND 2,000 MT PADUCAH. SINCE SALE BASED UPON US-JAPAN AGREEMENT FOR COOPERATION, GOJ REQUIRED TO CONFIRM UTILITY AS QUOTE AUTHORIZED PERSON UNQUOTE. DOCUMENTATION REQUESTING AND OBTAINING MITI AND STA CONFIRMATION OF TEPCO AS AUTHORIZED PERSON AVAILABLE ERDA TOKYO IF DESIRED. DOCUMENTATION IDENTIFIES OFFICIAL CONDITIONS OF SALE INCLUDING NUMBERS KGS SWU CONTRACTED FOR, AMOUNTS VARIOUS ENRICHMENTS SPECIFIED, WITHDRAWAL AND ENRICHED U DELIVERY DATES, UNCLASSIFIED

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CHARGE (\$32 PER KG SWU) AND PAYMENT DATE.

4. STATUTE OR DECREE GIVING GOJ LEGAL INTEREST IN URANIUM. THERE IS NO STATUTE OR DECREE KNOWN TO US WHICH GIVES GOJ AN IMMEDIATE OR RESIDUAL INTEREST IN THE URANIUM.

5. NEGOTIATIONS BETWEEN GOJ AND UTILITIES. TWO MATTERS WERE DISCUSSED BETWEEN UTILITIES AND GOJ PRIOR TO UTILITIES CONCLUDING CONTRACTS WITH AEC.

A. SCHEDULE FEED MATERIAL DELIVERY. THE MINUTE INDICATES THAT JAPAN WILL DELIVER TO AEC FEED MATERIAL ON A MUTUALLY AGREEABLE SCHEDULE, HENCE A SCHEDULE HAD TO BE NEGOTIATED.

B. LOW INTEREST GOVERNMENT LOAN. SINCE THE UTILITIES WERE CARRYING OUT THIS ARRANGEMENT ON BEHALF OF THE GOJ THEY REQUESTED MONEY BE FURNISHED FROM THE GOJ-ESTABLISHED EXIM BANK OF JAPAN AT A VERY LOW INTEREST RATE. THE CONDITIONS OF FINANCE WERE THAT \$320 M (10,000 MT AT \$32 PER KG) WOULD BE FURNISHED AT INTEREST RATES BETWEEN 3.6 PCT AND 5.0 PCT. THE INITIAL INTEREST RATE WAS 3.625 PCT. IT INCREASED TO A CURRENT LEVEL OF 4.5 PCT AND IS SUBJECT TO FURTHER ADJUSTMENT IF THERE ARE INCREASES IN TOLL ENRICHMENT CHARGES. (THE

LOWEST RATE OTHERWISE AVAILABLE IS 5.5 PCT FROM THE JAPAN INDUSTRIAL DEVELOPMENT BANK. THE JIDB SUPPORTS ELECTRIC POWER DEVELOPMENT PROJECTS WITH THIS 5.5 PCT MONEY.) THE DEADLINE FOR REPAYMENT IS MARCH 1, 1982 BUT PAYMENTS ARE TO BE COMPLETED EARLIER, IF POSSIBLE. THE ENRICHED URANIUM OR MATERIAL PROCESSED FROM IT OR IMPORTANT PROPERTY BELONGING TO THE COMPANY, MAY NOT BE MORTGAGED, SOLD OR LEASED WITHOUT EXIM CONSENT. ADDITIONAL LOAN-ASSOCIATED REQUIREMENTS ARE IMPOSED ON THE DEBTOR; MOST RELATE TO REPORTING AND ACCOUNTING.

6. HOPE INFO USEFUL, IF MORE DETAIL DESIRED BE PLEASED TO ASSIST.
HODGSON

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<< END OF DOCUMENT >>

Message Attributes

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